

REMARKS

This Amendment is being filed in response to the Office Action mailed March 20, 2008, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

By means of the present amendment, the current Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice. Further, the specification has been amended for better conformance to U.S. practice.

By means of the present amendment, claims 1-9 have been amended for non-statutory reasons, such as for better form including beginning the independent claims with 'A', beginning the dependent claims with 'The' instead of 'A', and deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Such amendments to claims 1-9 were not made in order to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

In the Office Action, claim 9 is rejected under 35 U.S.C. §101

as allegedly directed to non-statutory subject matter Without agreeing with the position forwarded in the Office Action, and in the interest of furthering the prosecution and expediting allowance of the present Application, claim 9 has been amended for better form that more clearly recites statutory subject matter. It is respectfully requested that the rejection of claim 9 under 35 U.S.C. §101 has been overcome and withdrawal of this rejection is respectfully requested.

In the Office Action, claims 1-8 are rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 6,469,978 (Ohata). It is respectfully submitted that claims 1-9 are patentable over Ohata for at least the following reasons.

Ohata is directed to a rewritable optical disk with spare area or defect management formatted with different group configurations without changing the firmware. As specifically recited in the Abstract, the size of the spare area or defect management is specified at initialization.

In stark contrast, the present invention as recited in independent claim 1, and similarly recited in independent claims 8-9, amongst other patentable elements recites (illustrative emphasis

provided):

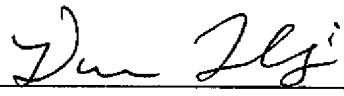
assignment means for adapting the assignment information in dependence of a **detected defect**, **detected during recording**, by assigning an additional physical address range to an additional defect management area, the additional physical address range having a starting physical address near the detected defect.

Adapting the assignment information in dependence of a detected defect, detected during recording, is nowhere disclosed or suggested in Ohata. Accordingly, it is respectfully requested that independent claims 1 and 8-9 be allowed. In addition, it is respectfully submitted that claims 2-7 should also be allowed at least based on their dependence from independent claim 1 as well as their individually patentable elements.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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